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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/020,116 | 12/18/2001 | Nobuyoshi Ando | 500.40994X00 | 5809 |

20457 7590 02/09/2005

ANTONELLI, TERRY, STOUT & KRAUS, LLP
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| EXAMINER |
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HOLLAR, ANDREA B

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

2142

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-----------------|--------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/020,116 | ANDO ET AL. | |
| | Examiner | Art Unit | |
| | Andrea Hollar | 2142 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 5-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed on 12/18/2001 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it was not submitted on form 1449. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Specification

The disclosure is objected to because of the following informalities: communicating apparatus 114, as discussed on page 11, line 18 does not appear in figure 4.

Appropriate correction is required.

Claim Objections

Claims 2, 3, 5, 6, and 7 are objected to because of the following informalities: "the two appliances" lacks antecedence. Appropriate correction is required.

Claim 5 is objected to because of the following informalities: "said calculation means" lacks antecedence. It is unclear which calculation means from claim 4 is intended. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4 and 5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. All of the limitations in claims 4 and 5 are directed to software means that are not tangibly embodied. "Reception means," "calculation means for calculating an occurrence time

difference..." and "calculation means calculating the positional relation of the positions..." are nothing more than disembodied computer programs.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Diebboll (patent number 5,886,643).

With respect to claim 1, Diebboll discloses an appliance located states accumulating method of accumulating data of a positional relation of positions where a plurality of appliances mutually connected through a network are located, comprising the steps of:

(a) receiving state information indicative of operating state changes of the appliances constituted of a distributed computer through said network (col. 8, line 48; col. 4, lines 1-3);

(b) calculating an occurrence time difference from the state changes occurred in the appliances in accordance with occurrence time information indicative of occurrence times of the state changes included in the state information (col. 6, lines 62-64); and

(c) calculating the positional relation of the positions, where the appliances occur the state changes, from the calculated occurrence time difference (col. 8, lines 46-51).

With respect to claim 2, Diebboll discloses that said step (c) calculates the positional relation in accordance with the occurrence time difference of the state changes occurred in the two appliances and relationship weight information indicative of a distance between the two appliances with both previously stored (col. 8, lines 46-51; col. 6, lines 19-21, 38-40, and 44-46).

With respect to claim 3, Diebboll discloses that said relationship weight information is a value calculated by a predetermined expression (col. 8, lines 48-51) in accordance with two elements: number

of times of occurring the state changes (col. 8, line 50); and the occurrence time difference of the state changes (col. 8, lines 49-50) occurred in the two appliances.

With respect to claim 4, Diebboll discloses an apparatus constituted of a plurality of appliances mutually connected through a network and for accumulating data of a positional relation of positions where the appliances are located, comprising:

a reception means receiving state information indicating operating state changes of the appliances constituted of a distributed computer through said network (col. 8, line 48; col. 4, lines 23-26; col. 4, lines 1-3);

calculation means calculating an occurrence time difference from the state changes occurred in the appliances in accordance with occurrence time information indicative of occurrence times of the state changes included in the state information (col. 6, lines 62-64); and

calculation means calculating the positional relation of the positions, where the appliances occur the state changes, from the calculated occurrence time difference (col. 8, lines 46-51).

With respect to claim 5, Diebboll discloses that said calculation means calculates the positional relation in accordance with the occurrence time difference of the state changes occurred in the two appliances and relationship weight information indicative of a distance between the two appliances with both previously stored (col. 8, lines 46-51; col. 6, lines 19-21, 38-40, and 44-46).

With respect to claim 6, Diebboll discloses storing means for storing the occurrence time difference of the state changes occurred in the two appliances and the relationship weight information indicative of the distance between the two appliances (col. 6, lines 19-21, 38-40, and 44-46).

With respect to claim 7, Diebboll discloses that the relationship weight information is a value calculated by a predetermined expression (col. 8, lines 48-51) in accordance with two elements: number of times of occurring the state changes (col. 8, line 50); and the occurrence time difference of the state changes occurred (col. 8, lines 49-50) in the two appliances.

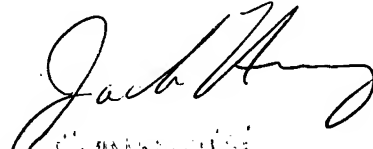
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea Hollar whose telephone number is (571) 272-5862. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack B. Harvey can be reached on (571) 272-3896. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ABH



Jack B. Harvey
Supervisor